

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

TERRY THEODORE WALKER,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR THURSTON COUNTY

The Honorable John C. Skinder, Judge
Cause No. 21-1-00088-34

BRIEF OF RESPONDENT

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A. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Whether general due process is satisfied where the State provides notice of its intent to terminate participation in drug court based on a breach of the drug court contract, the defendant stipulates to the violation that is a breach of the drug court contract, and the trial court considers whether that breach should result in termination from the program.

2. Whether it is appropriate to note on the judgment and sentence that legal financial obligations may not be collected from funds subject to the anti-attachment provision of 42 U.S.C. § 407.

3. Whether this Court should restrict the ability of the trial court to impose interest on restitution where the State Legislature has directed that the trial court impose interest on restitution and provided a mechanism for interest to be reduced or waived once the principal has been paid.

B. STATEMENT OF THE CASE

The appellant, Terry T. Walker, was charged with possession of a stolen motor vehicle and possession of a controlled substance in this cause number. CP 34. Walker was the driver of a stolen pickup truck, that he claimed to have rented from a friend, but acknowledged he had started it with a screwdriver. CP 3. A baggy of methamphetamine was located on the bench seat of the vehicle. CP 3. The information was later amended to remove the possession of controlled substance charge following State v. Blake, 197 Wn.2d 170, 481 P.3d 521 (2021). CP 5, RP 70.

At the time of his arrest, Mr. Walker was on probation for a district court charge and the Thurston County District Court authorized him to participate in the Thurston County Jail Chemical Dependency Program (CDP). On the remaining possession of stolen vehicle charge, Walker requested entry into the Thurston County Drug Court Program and entered a drug court contract with the State. CP 10-13. As a condition of entry into the drug court program, Walker agreed that he must

successfully complete Phase I and II of the jail CDP. CP 14. That addendum noted, “failure to abide by all jail, CDP and DUI drug court program rules may result in disciplinary action, placement in general population, and/or termination from the DUI drug court program.” CP 15.

On May 19, 2021, the trial court held a hearing with Walker to discuss his performance in the CDP program. RP 3-4. During that hearing, the prosecutor reiterated that “completion of CDP successfully is a requirement for him to actually be able to continue with the drug court program.” RP 4. The prosecutor noted that Walker had admitted to a major infraction of “use in jail” and warned, “if something like this happens, he may get terminated so he has to understand that that is really serious at this point.” RP 5. The trial court noted that the drug court program had also heard of some minor infractions and informed Walker,

Well, there were a few issues, and you know, you can talk about it in CDP, but a few issues that came up in their May 12th report. And I won’t go through

all those right now, but they were significant, and the feeling of CDP was that you were on thin ice, and you know, if you're terminated from CDP, that does cause the situation that you'd be terminated from drug court.

RP 5-6.

On June 23, 2021, the prosecutor filed a Petition Alleging Noncompliance with drug court contract and Motion for Termination, which alleged Walker had violated the terms of his drug court contract by being terminated from CDP on June 17, 2021. CP 15-16. On September 17, 2021, the defense filed a memorandum and motion "in support of continued participation in drug court." CP 20-67. In the memorandum, the defense acknowledged that Walker had been terminated from CDP for behavioral issues, but requested an evidentiary hearing on the issue of whether or not Walker should be terminated from the drug court "solely because he was terminated from CDP." CP 20, 23.

The prosecutor filed an objection to certain witness testimony indicating that the proposed testimony would be

irrelevant to alleged violation, that Walker was terminated from CDP. CP 17-19. The prosecutor acknowledged that testimony from drug court program Director, Sabrina Craig, and Lt. Stephanie Klien of the Thurston County Corrections Bureau, would be appropriate to demonstrate that Walker did not successfully complete CDP and was terminated from the program. CP 18.

On September 21, 2021, the trial court considered the noncompliance petition and motion to terminate Walker from drug court. RP 10. The trial court inquired of defense counsel, indicating that in the defense appeared to acknowledge that Walker had been terminated from CDP in its briefing. RP 11. The trial court indicated “it sounded to me as if the defense was acknowledging that Mr. Walker was terminated from the CDP, but the defense was asking the court to consider whether termination from drug court should occur based upon that termination from the CDP program.” RP 11. Defense counsel responded,

Your Honor, we're not contesting that he was terminated from CDP. That's an agreed fact. I think that's pretty obvious at this point. We're not going to be contesting that specific fact. Our case is based on the fact that Mr. Walker started drug court in CDP, that the order that the court signed said that if he did not complete CDP the court may terminate him or issue some sort of sanction, but there was no language in there indicating that the court shall terminate him.

RP 12. Defense counsel asked the trial court to "review the actively supervised treatment and evaluate the violations leading to the offender's termination" and asked the trial court to,

scrutinize what actually occurred in CDP and what led to termination of Mr. Walker and on top of that it's not necessarily a foregone conclusion that he would be unable to comply with drug court out of custody given that there's an entirely different set of requirements, rules, all kinds of things different from the CDP program and the curriculum therein.

RP 12.

Defense counsel emphasized,

the crux of our argument is that just because he was terminated from CDP does not mean he should not be given a chance to comply with drug court out of custody when he started the CDP program solely because he was already in the CDP program pursuant to a district court FTC violation.

RP 12-13.

The trial court then discussed case law regarding due process at a drug court termination and asked defense counsel,

What it sounds like you are saying is, “My client was terminated from CDP. He’s in violation of this order. But I’m asking that the court exercise its discretion and not sanction by terminating him from drug court.” But that might not be what you’re asking, but I want to make sure.

RP 16.

Defense counsel indicated that Walker was terminated from CDP for behaviors that were outside of treatment and concluded,

So yes, the question that we’re asking the court to adjudicate is despite his termination from CDP is he still a good fit for drug court and is there still a way we can help this gentleman avoid going to prison for the next five years because of these three strikes violations pursuant to a relapse.

RP 16-17. After further discussion, the trial court inquired,

So there’s no issue as to the violation, the (sic) Mr. Walker violated and was terminated from the chemical dependency program of the jail. The issue that it seems to me that the defense is asking for is

for the court to consider what the appropriate sanction for that is. The state, (sic) of course, is asking, based upon the contract, that the court strictly construe that contract and hold that Mr. Walker has failed in meeting the requisite terms and that the court should therefore terminate him from the drug court program. You're asking the court instead to consider an alternative view of what the right sanction should be, and in some ways asking the court to not be limited by the language of the contract. And so that's what I'm trying to make sure I understand. Am I couching that correctly?

RP 20-21.

Defense counsel responded, "You're couching that correctly, and I understand what the court's saying." RP 21.

Defense counsel then indicated, "our position is that what happened in CDP is relevant to the termination that he underwent and it's the State's burden to show that he's not going to be able to comply with drug court going forward." RP 21.

After further discussion, the trial court accepted Walker's stipulation that he had been terminated from the chemical dependency program and noted that an evidentiary hearing was not necessarily due to the stipulation. RP 26. The trial court

agreed with the defense that the court still had to determine the appropriate result that termination from CDP should have on drug court. RP 26. The trial court found,

the court is satisfied that there clearly is supportive of the fact the State has carried its burden to show by a preponderance of the evidence that there has been the termination of chemical dependency program. That's been proven. It's been stipulated to and agreed to. Really the issue is what the court does with that.

RP 27.

The trial court invited the defense to make arguments about the proper remedy and indicated that it would hear from Walker and from Veronica Kalista, a member of Walker's church family, if the defense wished to offer statements or testimony from them. RP 31-32. The trial court noted that it had received the defense pleadings and noted that the defense had attached relevant documents to its pleadings that the trial court had reviewed. RP 33. After a recess, defense counsel indicated, "Your Honor, I think we're prepared to go forward with just arguing why Mr. Walker should be given a shot out of custody

in drug court.” RP 35. The defense offered testimony from Walker and a letter that he had for the trial court to consider. RP 38, 39-40, 42-62.

At the close of the hearing, the trial court spoke to Walker about his termination from CDP. After discussing how CDP can lead to positive outcomes in drug court, the trial court stated,

Unfortunately it did not happen in your case, and I appreciate that you’ve been very up front about those things, and your counselor had attached those violations, and it was clear to me that for the most part you took responsibility for those things, and that is a positive thing for you. But the difficulty I have is what to do with the fact that a requirement for the program you didn’t do (sic).

RP 73-74. After noting that the trial court had listened carefully to everything that had been presented, the trial court stated, “But when I look at the contract, when I look at the agreement I’m going to enforce it the way it was written, that it was a requirement that you completed that chemical dependency program.” RP 74.

The trial court noted that the CDP was structured to provide “structure and accountability” that Walker was not able to successfully complete the program, leading to the conclusion that he “should be terminated from the DUI drug court.” RP 74-75. The trial court entered an order terminating Walker from the drug court program. CP 71.

The defense subsequently filed a motion to reconsider termination from the drug court. CP 72-81. While arguing the motion for reconsideration, defense counsel indicated that the defense “didn’t adequately express on the 21st” that “there are disputed facts underlying his termination from CDP.” RP 79. The trial court noted that the defense had attached appendices in their motion and memorandum in support of continued participation in drug court and had gone through the violations and indicated that Walker had accepted responsibility for “many of these things.” RP 81. The trial court noted that “all of those documents were things the court obviously considered because [the defense] submitted them as part of [their] motion.” RP 82.

The trial court also noted that the trial court had warned Mr. Walker that he was on “thin ice” in CDP and needed to follow the rules on May 19th. RP 82.

Defense counsel argued that there was insufficient due process in the CDP revocation, to which the trial court noted, “But those appendixes that you attached contain all that information. And I think even in your own argument Mr. Walker acknowledged the violations.” RP 84. The trial court later asked, “your position is that your client admitted to the violations that you lay out in your briefing, but you think the court shouldn’t consider that because you’ve only laid it out in your pleadings.” RP 91-92. Defense counsel responded, “Right. That’s not evidence. And there’s no opportunity for cross-examination.” RP 92.

The trial court pointed out that defense counsel’s office was part of the process of Walker going through CDP and was always present in regular DUI drug court staffings. RP 99. Speaking to Walker, the trial court ruled,

But when I look at the contract that you entered into, when I look at the fact that successful completion of the CDP was required, that that did not happen, and I'm appreciative of your attorney really trying to fight very hard for you, but when I look at all the information that's in this case, and when I look at what's been provided to me and what I'm aware of through that process of the staffings that we've had on your case, that's why I talked about using my discretion, and you know, one of my jobs, and you know this, is to hold people accountable, and I'm going to hold you accountable to the agreement that you entered into. I'm not reconsidering. The termination order that I signed will remain in place, and I'm also -- if I didn't say it before, it's sort of the flip side of the coin. Your attorney had filed a motion to order that you continue in DUI drug court. I'm not granting that.

RP 106.

The trial court then conducted a stipulated facts bench trial pursuant to the terms of the drug court contract and found Walker guilty of possession of a stolen vehicle. RP 111-112, CP 85-86. At sentencing, the trial court granted the defense request for a Drug Offender Sentencing Alternative and sentenced Walker to a term of 25 months incarceration followed by 25 months of

community custody. RP 115, 120; CP 94-104. Mr. Walker now appeals.

C. ARGUMENT

1. The trial court's procedures for considering whether Walker should be terminated from the drug court complied with the basic guarantees of due process.

This Court reviews issues of law de novo. State v. Womac, 160 Wn.2d 643, 649, 160 P.3d 40 (2007). A claim that the constitutional right to due process was denied is likewise reviewed de novo. Brown v. State, 155 Wn.2d 254, 261, 119 P.3d 341 (2005). Trial courts in Washington State are encouraged to establish and operate therapeutic courts. RCW 2.30.030(1). “Therapeutic courts, in conjunction with the government authority and subject matter experts specific to the focus of the therapeutic court, develop and process cases in ways that depart from traditional judicial process.” *Id.* “In criminal cases the consent of the prosecutor is required.” *Id.* The specific

operation of the drug court is left to each county. State v. Drum, 168 Wn.2d 23, 32, 225 P.3d 237 (2010).

A drug court participant's stipulation in exchange for participation in the drug court program is a knowing and intelligent waiver of all subsequent factual, legal, or procedural issues the defendant might raise. State v. Varnell, 137 Wn. App. 925, 930, 155 P.3d 971 (2007). The State retains discretion over admittance to the program and prosecutorial decisions. State v. DiLuzio, 121 Wn. App. 822, 829-30, 90 P.3d 1141 (2004). Entry into a drug court program is governed by contract law. State v. Drum, 143 Wn. App. 608, 616-17, 181 P.3d 18 (2008), *aff'd on other grounds*, State v. Drum, 168 Wn.2d 23 (2010). When the State seeks to terminate an individual's participation in drug court, the State must prove non-compliance with the contract by a preponderance of the evidence. Varnell, at 929. The State cannot terminate drug court participation without (1) giving the defendant notice and an opportunity to contest the basis of the termination and (2) creating a record of the evidence relied on to

terminate participation. State v. Cassil-Skilton, 122 Wn. App. 652, 658, 94 P.3d 407 (2004).

The State has the discretion whether to terminate a pretrial diversion and this discretion should be reviewed by the trial court for reasonableness. State v. Marino, 100 Wn.2d 719, 725, 674 P.2d 171 (1984). When “the procedure followed by the trial court substantially satisfies the criteria we adopt for termination of pretrial diversion agreements, we find that appellant (sic) has not been denied due process.” *Id.* at 727. A review for reasonableness will give deference to the prosecutor. *Id.* at 726. The trial court’s function in evaluating the State’s drug court termination motion is similar to evaluating alleged probation violations. Cassill-Skilton, at 657-658. The decision to revoke probationary status rests in the sound discretion of the trial court. State v. Kuhn, 81 Wn.2d 648, 650, 503 P.2d 1061 (1972).

In Cassill-Skilton, this Court found that there was no record to show the basis of termination or any opportunity for a hearing on the alleged violations and overturned a trial court’s

termination from drug court. Cassill-Skilton at 658. In Varnell, the defendant argued that if he had not received the due process as required by Cassill-Skilton when he was terminated from the drug court program, but this Court rejected his claim because he had stipulated to termination and thus, “the State was relieved of its burden to prove Varnell’s noncompliance with the agreement.” Varnell, at 931.

Here, Walker made certain contractual promises when he entered into the drug court program, which included his acknowledgment that he had to complete phases I and II of the CDP program as a prerequisite to continuing in drug court. CP 10-14. The State provided notice of its intent to seek termination because Walker had violated his contractual promises by being terminated from the CDP program. CP 15-16. The defense then stipulated that Walker had been terminated from CDP and provided records from the CDP program of Walker’s violations in support of Walker’s motion to continue participation in drug court. CP 20-67. While Walker did not voluntarily remove

himself from drug court, his stipulation relieved the State of the burden to prove that he had failed to comply with the terms of the contract similarly to Varnell. The trial court held a hearing giving Walker the opportunity to argue whether his termination from CDP should result in his termination from the drug court and defense counsel acknowledged that Walker was not contesting that he was terminated from CDP, but sought to argue that he should still remain in the drug court program. RP 12-13.

The trial court clearly gave the defense an opportunity to argue that the sanction for Walker's violation of his contractual promise to complete CDP should not be termination from the drug court program. Walker, through his counsel, acknowledged that he violated the CDP rules and was terminated from the program. RP 20-21. The trial court noted that it had reviewed the CDP records provided by the defense in conjunction with its decision to terminate Walker from the drug court program. RP 81-82. Additionally, the trial court pointed out that Walker had

representation throughout the CDP and regular drug court staffings. RP 99.

With Walker's stipulation, the process utilized by the trial court in finding that Walker had violated the terms of his drug court contract and in finding that termination from drug court was appropriate, complied with guarantees of due process. Walker was provided notice, had an opportunity to be heard, and stipulated to the factual violation of his drug court contract. The decision to terminate Walker from drug court was within the sound discretion of the trial court.

In this case, the source of the drug court process came from the contract Walker entered. State v. Marino, 100 Wn.2d 719, 674 P.2d 171 (1984), the defendant and the prosecutor agreed to a pretrial diversion with a term he complete therapy programs. The defendant failed to comply with the agreement, and the State pursued prosecution. *Id.* The Court held that prosecutorial reasonableness was the standard and so long as the trial court clearly stated the evidence upon which it relied; the defendant

was not denied due process. *Id.* at 725-727. Here the trial court clearly indicated that it was relying on Walker's stipulation that he had been terminated from CDP. The contract that he entered to participate in drug court clearly required that he complete phase I and phase II of the CDP program. By failing to do so, Walker was in clear violation of the pretrial diversion contract that allowed for his entry into drug court. There was no violation of due process in finding that termination from drug court was appropriate.

At a termination hearing, the State's burden is to prove that Walker breached the agreement. Marino, at 725, State v. Kessler, 75 Wn. App. 634, 637, 879 P.2d 333 (1994). Here, Walker stipulated to the breach of agreement but sought to argue that the breach should not result in termination from drug court. The determination as to whether termination is reasonable for contractual violations is analogous to a determination of a breach of contract case of whether a breach is material, thus warranting

a remedy. Kessler, at 640-641, *citing*, Vacova Co. v. Farrell, 62 Wn. App. 386, 403, 814 P.2d 255 (1991).

Walker's citation to In re Pers. Restraint of Schley, 191 Wn.2d 278, 421 P.3d 951 (2018) for the proposition that the trial court did not adequately consider the basis for CDP termination is misplaced. In Schley, the defendant was serving a Drug Offender Sentencing Alternative and received an infraction for fighting. *Id.* at 282. Schley denied the allegations during a prison disciplinary hearing but was found guilty by a hearing officer of the infraction. *Id.* at 282. Based on the fighting infraction the clinical staff of the prison terminated Schley from the treatment program and the Department of Corrections held a hearing to determine whether the DOSA should be revoked. *Id.* Schley was found to have failed to have been administratively terminated from DOSA treatment. Schley argued that he had the right to challenge the fighting infraction before his DOSA could be revoked and the hearing officer indicated that the only issue before her was whether he had been administratively terminated

from treatment. *Id.* Our State Supreme Court held that the Department must prove an infraction by a preponderance of the evidence if it results in a DOSA revocation. *Id.* at 285. The infraction hearing had been decided on a “some evidence” standard. *Id.* at 282.

Unlike Schley, Walker acknowledged that he had behavioral violations that led to his removal from CDP. CP 20-24, RP 16-17, 21, 26. Additionally, the drug court contract that Walker entered required compliance with the CDP program and specifically noted that Walker had to “follow all rules and regulations of the Thurston County Inmate Behavior Guidelines and all policies and procedures of the CDP,” which included work detail. CP 14. The records provided by the defense showed that Walker had been given several opportunities to abide by those rules and failed to do so. Walker’s tactic at the evidentiary hearing was to argue that those violations should not exclude him from participating in drug court because there are different rules in drug court. CP 20-67, RP 12.

Unlike Schley, who had a liberty interest in the DOSA treatment program as part of his DOSA sentence, Walker's requirement to comply with CDP was based on his contractual agreement to abide by all rules of CDP. Walker's stipulation was sufficient to demonstrate that he had violated the terms of his drug court contract. The trial court then gave him ample opportunity to argue about whether or not he should be terminated from the drug court program. There was no due process violation.

The trial court's ruling that an evidentiary hearing was not required was based on Walker's acknowledgment that violation of the drug court contract had occurred. RP 26-27. The trial court did not deny the ability to call witnesses or to confront witnesses as Walker alleges. To the contrary, even after accepting Walker's stipulation, the trial court indicated a willingness to hear from Walker and Veronica Kalista and defense counsel informed the trial court that they were "prepared

to go forward with just arguing why Mr. Walker should be given a shot out of custody in Drug Court.” RP 31-35.

The trial court also clearly placed the basis for its ruling on the record and incorporated its verbal ruling in its order terminating Mr. Walker from drug court. CP 71, RP 73-75. The Court provided further insight on its ruling when it denied Walker’s motion to reconsider. RP 106. More detailed findings were not necessary because during the initial hearing, when the State had witnesses available, Walker stipulated to the violation. RP 11, 17, 24. The notice, opportunity to be heard and finds were sufficient to comply with requirements of due process.

2. Walker made no request for a notation regarding the anti-attachment provision of the Social Security Act and therefore did not preserve his request for such a notation, however, the State agrees that legal financial obligations cannot be satisfied with Social Security Income and would not oppose remand for the sole purpose of entering an amendment to the judgment and sentence clarifying that legal financial obligations cannot be satisfied with social security income.

The State is familiar with the holding of State v. Catling, 193 Wn.2d 252, 260, 438 P.3d 1174 (2019), indicating that legal financial obligations cannot be satisfied from funds subject to the anti-attachment provision of 42 U.S.C. § 407(a). Our State Supreme Court has suggested that the anti-attachment provision applies to all legal financial obligations, including restitution. City of Richland v. Wakefield, 186 Wn.2d 596, 608, *citing*, In re Lambert, 306 Mich.App. 226, 856 N.W.2d 192 (2014); State v. Eaton, 2004 MT 283, 323 Mont. 287, 293, 99 P.3d 661 (2004). Here, the trial court did not set a payment schedule that would run afoul of 42 U.S.C. §407, and the record contains no indication of any State agency attempting to do so. As such, the judgment and sentence entered in this case does not violate the anti-attachment provision. *See*, State v. Lugo, 2021 Wash.App.LEXIS 1694, 18 Wn.App.2d 1021 (2021).¹ During the sentencing hearing, neither Walker nor his counsel requested

¹ Unpublished Opinion offered under GR 14.1 for whatever value this Court deems appropriate.

that the court direct that legal financial obligations not come out of Social Security Income.

While no attempt has been made to violate the anti-attachment clause, 42 U.S.C. § 407(a), the State does not oppose remand to amend the judgment and sentence with a notation that the imposed legal financial obligation cannot be satisfied with social security income. Mr. Walker did testify that he receives SSDI during the proceedings. RP 50.

3. The trial court properly included a notation that restitution obligations shall bear interest and that no non-restitution interest shall be imposed.

RCW 10.82.090(1) requires that restitution imposed in a judgment shall bear interest from the date of the judgment until payment, at the rate applicable to civil judgments. The rule further indicates that no interest shall accrue on non-restitution legal financial obligations. RCW 10.82.090(1). Unlike non-restitution legal financial obligations, restitution is ordered whenever the offender is convicted of an offense that results in damage to or loss of property, and the court may not reduce the

total amount of restitution ordered because the defendant may lack the ability to pay. RCW 9.94A.753(4) and (5).

The rationale of State v. Blazina, 182 Wn.2d 827, 344 P.3d 680 (2015), does not apply to restitution or restitution interest. The holding of Blazina requires an individualized determination of the ability to pay for discretionary legal financial obligations, not including restitution. Blazina specifically noted that restitution obligations should be considered when determining a defendant's ability to pay. *Id.* at 838-839.

Walker's argument that this Court should apply the rationale of Blazina to hold that a trial court cannot impose interest on restitution to a person who receives disability income is unsupported by any statute or case law. This Court should deny the request. Moreover, no such argument was preserved at sentencing. RP 115. Generally, a reviewing Court will not consider an evidentiary issue that is raised for the first time on appeal because failure to object deprives the trial court of the opportunity to prevent or cure any error. RAP 2.5(a)(3); State v.

Kirkman, 159 Wn.2d 918, 926, 155 P.3d 125 (2007). This Court should decline to consider the issue under RAP 2.5.

Even if this Court considers the issue, the legislature has recognized the potential difficulties involved with interests, even on restitution, and a mechanism for waiving interests on restitution exists in RCW 10.82.090(2)(b), which states that “the court may reduce interest on the restitution portion of legal financial obligations only if the principal has been paid in full and as an incentive for the offender to meet his or her other legal financial obligations.” A change effective January 1, 2022, will remove the requirement that a reduction be an incentive to pay other obligations and adds a provision that would authorize the court to waive or reduce interest on restitution if the court finds that the offender does not have the current or future ability to pay. Laws 2022 c 260 § 12. There is no basis upon which this Court should modify the mechanisms set by the legislature to make victims whole and take into account a defendant’s ability to pay.

For the reasons stated in the previous section, the State does not oppose a notation that legal financial obligations may not be collected from funds subject to the anti-attachment provision of 42 U.S.C. § 407(a).

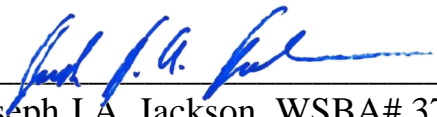
D. CONCLUSION

The State provided notice of its intent to seek termination of the drug court contract based on Walker's breach of the contractual condition that he comply with CDP, Walker was given an opportunity for a hearing on the violation and chose to stipulate that the violation had occurred. There was no violation of due process in the procedure which led to Walker's termination from drug court. This Court should not restrict interest on restitution where the legislature has provided adequate mechanisms for balancing providing restitution to victims and the ability to reduce or waive interest once the principal is paid. The State does not oppose remand for an order amending the judgment and sentence with a notation that legal

financial obligations cannot be satisfied through funds subject to
42 U.S.C. § 407(a).

I certify that this brief contains 5194 words, as counted by
word processing software, not including those portions exempted
by rule, in compliance with RAP 18.17.

Respectfully submitted this 8th day of August 2022.



Joseph J.A. Jackson, WSBA# 37306
Attorney for Respondent

DECLARATION OF SERVICE

I hereby certify that on the date indicated below I electronically filed the foregoing document with the Clerk of the Court of Appeals using the Appellate Courts' Portal utilized by the Washington State Court of Appeals, in Division II, which will provide service of this document to the attorneys of record.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Olympia, Washington.

Date: August 8, 2022.

Signature: Stephanie Johnson

THURSTON COUNTY PROSECUTING ATTORNEY'S OFFICE

August 08, 2022 - 4:32 PM

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Appellate Court Case Title: State of Washington, Respondent v Terry T. Walker, Appellant
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